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10 *Attorneys for Plaintiff, The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New*  
11 *York Trust Company, N.A. as successor-in-interest to JPMorgan Chase Bank N.A. f/k/a*  
12 *JPMorgan Chase Bank, as Trustee for MASTR Adjustable Rate Mortgages Trust 2004-9,*  
13 *Mortgage Pass-Through Certificates, Series 2004-9*

14 **UNITED STATES DISTRICT COURT**  
15 **DISTRICT OF NEVADA**

16 THE BANK OF NEW YORK MELLON  
17 TRUST COMPANY, N.A. F/K/A THE  
18 BANK OF NEW YORK TRUST  
19 COMPANY, N.A. AS SUCCESSOR-IN-  
20 INTEREST TO JPMORGAN CHASE BANK  
21 N.A. F/K/A JPMORGAN CHASE BANK,  
22 AS TRUSTEE FOR MASTR ADJUSTABLE  
23 RATE MORTGAGES TRUST 2004-9,  
24 MORTGAGE PASS-THROUGH  
25 CERTIFICATES, SERIES 2004-9,

26 Plaintiff,

27 vs.

28 FIDELITY NATIONAL TITLE GROUP,  
INC.; CHICAGO TITLE INSURANCE  
COMPANY,

Defendants.

Case No.: 2:20-cv-01394-JCM-BNW

**STIPULATION AND ORDER TO  
EXTEND DISCOVERY**

(Third Request)

29 Plaintiff, The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New  
30 York Trust Company, N.A. as successor-in-interest to JPMorgan Chase Bank N.A. f/k/a  
31 JPMorgan Chase Bank, as Trustee for MASTR Adjustable Rate Mortgages Trust 2004-9,  
32 Mortgage Pass-Through Certificates, Series 2004-9 (“BONY”) and Defendants, Chicago Title  
33 Insurance Company (“Chicago Title”) and Fidelity National Title Group, Inc. (“Fidelity”)

1 (collectively, the “Parties”), by and through their counsel of record, hereby request a sixty (60)  
2 days extension to the initial expert disclosure deadline in accordance with Local Rule 26-3 and  
3 Local Rule IA 6-1. Counsel for BONY recently learned that its expert is no longer able to author  
4 its initial expert report prior to the January 5, 2023 deadline due to upcoming trial and holiday  
5 conflicts. As such, good cause exists to support the request for an extension to the initial expert  
6 deadline.

7 This is the Parties third request for an extension of time to the current discovery plan and  
8 counsel submits that the request is brought in good faith, supported by good cause in compliance  
9 with LR 26-3, and is not intended to cause delay.

10 **A. Statement Specifying the Discovery Completed:**

11 The Parties conducted the Fed. R. Civ. P. 26(f) conference on September 23, 2020. On  
12 October 9, 2020, the Court entered its initial Discovery Plan and Scheduling Order [ECF No. 22].  
13 On July 23, 2021, the Court entered an Order staying the case pending the outcome of *Wells*  
14 *Fargo Bank, N.A. v. Fidelity Nat'l Title Ins. Co.*, Ninth Cir. Case No. 19-17332, Case No. 3:19-  
15 cv-00241-MMD-WGC (*Wells Fargo II*) [ECF No. 63]. A Minute Order lifting the stay was  
16 entered on January 11, 2022 [ECF No. 72]. On April 29, 2022, a Scheduling Order [ECF No. 74]  
17 was entered. Subsequently, a Stipulation and Order to Extend Discovery [ECF No. 79] was  
18 entered on October 17, 2022, with the following deadlines:

- 19       • Initial expert disclosures: January 5, 2023;  
20       • Rebuttal expert disclosures: February 6, 2023;  
21       • Discovery cutoff: March 6, 2023;  
22       • Dispositive motions: April 5, 2023; and  
23       • Joint proposed pretrial order: May 5, 2023, or 30 days after resolution of  
24           dispositive motions.

25 To date, the Parties have completed the following discovery:

- 26       • Chicago Title and Fidelity’s Initial Disclosure of Witnesses and Documents,  
27           November 6, 2020;  
28       • BONY’s Initial Disclosure of Witnesses and Documents, November 6, 2020;

- 1       • Chicago Title's First Set of Interrogatories to BONY, September 30, 2020;
- 2       • Chicago Title's First Set of Requests for Admission to BONY, September 30,
- 3              2020;
- 4       • Chicago Title's First Set of Requests for Production to BONY, September 30,
- 5              2020;
- 6       • BONY's First Set of Interrogatories to Chicago Title, November 10, 2020;
- 7       • BONY's First Set of Requests for Admission to Chicago Title, November 10,
- 8              2020;
- 9       • BONY's First Set of Requests for Production to Chicago Title, November 10,
- 10              2020;
- 11       • BONY's First Set of Interrogatories to Fidelity, November 10, 2020;
- 12       • BONY's First Set of Requests for Admission to Fidelity, November 10, 2020;
- 13       • BONY's First Set of Requests for Production to Fidelity, November 10, 2020;
- 14       • BONY's Responses to Chicago Title's First Set of Requests for Admission,
- 15              February 5, 2021;
- 16       • Chicago Title's Notice of Intent to Serve Subpoena Duces Tecum to the following
- 17              Entities, February 16, 2021:
  - 18                  ○ Western Progressive – Nevada, Inc.;
  - 19                  ○ Corelogic, Inc.;
  - 20                  ○ Ocwen Loan Servicing, LLC;
  - 21                  ○ Bank of America, N.A.;
  - 22                  ○ Nevada New Builds, LLC;
  - 23                  ○ La Posada Condominium Property Owner's Association;
  - 24                  ○ Kevin E. Davidson;
  - 25                  ○ Karen M. Davidson;
  - 26                  ○ ReconTrust Company, N.A.;
  - 27                  ○ Nevada Association Services, Inc.;
  - 28                  ○ Miles Bauer Bergstron & Winters, LLP; and

- Mortgage Electronic Registrations Systems, Inc.
  - Chicago Title’s Subpoena Duces Tecum to Mortgage Electronic Registrations Systems, Inc., served February 19, 2021;
  - Chicago Title’s Subpoena Duces Tecum to Ocwen Loan Servicing, LLC, served February 19, 2021;
  - Chicago Title’s Subpoena Duces Tecum to Federal National Mortgage Association, served July 2, 2021;
  - BONY’s Interrogatories to Chicago Title (*re-served*), July 5, 2022;
  - BONY’s Requests for Admission to Chicago Title (*re-served*), July 5, 2022;
  - BONY’s Requests for Production to Chicago Title (*re-served*), July 5, 2022; and
  - BONY’s Requests for Admission concerning genuineness of documents to Chicago Title (*re-served*), July 5, 2022.
  - BONY’s Responses to Chicago Title’s First Set of Interrogatories, October 5, 2022.
  - BONY’s Responses to Chicago Title’s First Set of Requests for Production, October 5, 2022.
  - BONY’s First Supplemental Disclosure of Witnesses and Documents, October 5, 2022.
  - Chicago Title’s Responses to BONY’s Interrogatories, October 5, 2022.
  - Chicago Title’s Responses to BONY’s Requests for Admission, October 5, 2022.
  - Chicago Title’s Responses to BONY’s Requests for Admission concerning genuineness of documents, October 5, 2022.
  - Chicago Title’s Responses to BONY’s Requests for Production, October 5, 2022.
  - Chicago Title’s First Supplemental Disclosure of Witnesses and Documents, December 2, 2022.
  - Fidelity’s Responses to BONY’s Interrogatories, December 2, 2022.
  - Fidelity’s Responses to BONY’s Requests for Admission, December 2, 2022.
  - Fidelity’s Responses to BONY’s Requests for Production, December 2, 2022.

1           **B. Specific Description of the Discovery that Remains to be Completed:**

2           The Parties need to conduct the following discovery:

- 3           • The Parties' Initial Expert Disclosure;
- 4           • The Parties' Rebuttal Expert Disclosure;
- 5           • Deposition of Fed. R. Civ. P. 30(b)(6) Witness for Chicago Title;
- 6           • Deposition of Fed. R. Civ. P. 30(b)(6) Witness for BONY;
- 7           • Deposition of various fact witnesses and experts; and
- 8           • Such other discovery that may be deemed necessary or appropriate.

9           **C. The Reasons why the Deadline was not Satisfied or the Remaining Discovery was not  
10           Completed Within the Time Limits set by the Discovery Plan:**

11           Counsel for BONY recently that its expert is unable to prepare its initial expert report prior  
12 to the current January 5, 2023 deadline given upcoming trial and holiday conflicts. Counsel for  
13 BONY is informed that its expert is not available to prepare a report in this case until early March  
14 2023. Accordingly, the Parties request a sixty (60) day extension to the discovery deadlines. In  
15 accordance with Local Rule 26-3, good cause exists for an extension to the discovery deadlines  
16 as BONY's expert is unable to prepare his expert report prior to the January 5, 2023 deadline.

17           **D. A proposed schedule for completing all remaining discovery.**

18           The Parties request that the current deadlines in the Stipulation and Order to Extend  
19 Discovery [ECF No. 79] be extended as follows:

- 20           1. Last Day to Disclose Initial Expert Report: currently January 5, 2023, **desired March  
21           6, 2023;**
- 22           2. Last Day to Disclose Rebuttal Experts: currently February 6, 2023, **desired April 7,  
23           2023;**
- 24           3. Last Day to Complete Discovery: currently March 6, 2023; **desired May 5, 2023;**
- 25           4. Last Day to File Dispositive Motions: currently April 5, 2023, **desired June 5, 2023;**
- 26           5. Last Day to File Joint Pre-Trial Order: currently May 5, 2023, **desired July 5, 2023.**

27           In the event dispositive motions are filed, the date for filing the joint pretrial order  
28 shall be suspended until thirty (30) days after a decision of the dispositive motions.

1           The disclosures required by FRCP 26(a)(3), and any objections thereto, shall be  
2           included in the pretrial order.

3           **IT IS SO STIPULATED.**

4           DATED this 15<sup>th</sup> day of December, 2022.           DATED this 15<sup>th</sup> day of December, 2022.

5           WRIGHT, FINLAY & ZAK, LLP

SINCLAIR BRAUN LLP

6           /s/ Lindsay D. Dragon

/s/ Kevin S. Sinclair

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10           Attorney for Plaintiff

11           Attorneys for Defendants

12           **ORDER**  
13           **IT IS SO ORDERED**

14           **DATED:** 2:04 pm, December 16, 2022

15           

16           **BRENDA WEKSLER**  
17           **UNITED STATES MAGISTRATE JUDGE**

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